

National Transportation Safety Board

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(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceedings.

§ 800.35 Participation of interested persons.

(a) Any interested person may participate in rulemaking proceeding by submitting comments in writing containing information, views or arguments.

(b) In its discretion, the agency may invite any interested person to participate in the rulemaking procedures described in this subpart.

§ 800.36 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before the end of the comment period stated in the notice. The petition must be submitted to: General Counsel, National Transportation Safety Board, 490 L'Enfant Plaza SW., Washington, DC 20594-2003. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and the NTSB will publish a notice of the extension of the comment period in the FEDERAL REGISTER.

§ 800.37 Contents of written comments.

All written comments shall be in English. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit. Any commenter shall submit as a part of his or her written comments all material he or she considers relevant to any statement of fact made in the comment. Commenters should avoid incorporation by reference. However, if incorporation by reference is necessary, the in-

corporated material shall be identified with respect to document and page. The NTSB may reject comments if they are frivolous, abusive, or repetitious. The NTSB may also reject comments filed electronically if the commenter does not adhere to the electronic filing instructions at the Federal Docket Management System Web site.

§ 800.38 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered to the extent practicable.

§ 800.39 Additional rulemaking proceedings.

The NTSB may initiate any further rulemaking proceedings it finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Board or a representative of the Board and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Board, at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 800.40 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, fact-finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The NTSB designates a representative to conduct any hearing held under this part. The General Counsel or a designated member of his or her staff may serve as legal officer at the hearing.

§ 800.41 Adoption of final rules.

Final rules are prepared by representatives of the office concerned

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and the Office of the General Counsel. The rule is then submitted to the Board for its consideration. If the Board adopts the rule, it is published in the FEDERAL REGISTER unless all persons subject to it are named and are personally served with a copy of it.

§ 800.42 Petitions for rulemaking.

(a) Any interested person may petition the Chairman to establish, amend, or repeal a rule.

(b) Each petition filed under this section must:

(1) Be submitted in duplicate to the Chairman, National Transportation Safety Board, 490 L'Enfant Plaza SW., Washington, DC 20594-0003;

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested; and

(4) Contain any information and arguments available to the petitioner to support the action sought.

§ 800.43 Processing of petition.

(a) Unless the NTSB otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the agency determines the petition contains adequate justification, it initiates rule making action this subpart.

(c) *Denials.* If the agency determines the petition does not justify rule-making, it denies the petition.

(d) *Notification.* Whenever the agency determines a petition should be granted or denied, the Office of the General Counsel prepares a notice of the grant or denial for issuance to the petitioner, and the agency issues it to the petitioner.

§ 800.44 Direct final rulemaking procedures.

A direct final rule makes regulatory changes and states those changes will take effect on a specified date unless the NTSB receives an adverse comment or notice of intent to file an adverse comment by the date specified in the direct final rule published in the FEDERAL REGISTER.

49 CFR Ch. VIII (10-1-15 Edition)

(a) *Types of actions appropriate for direct final rulemaking.* Rules the Board determines to be non-controversial and unlikely to result in adverse public comments may be published in the final rule section of the FEDERAL REGISTER as direct final rules. These include non-controversial rules that:

(1) Make non-substantive clarifications or corrections to existing rules;

(2) Incorporate by reference the latest or otherwise updated versions of technical or industry standards;

(3) Affect internal NTSB procedures;

(4) Update existing forms; and

(5) Make minor changes to rules regarding statistics and reporting requirements, such as a change in reporting period (for example, from quarterly to annually) or eliminating a type of data collection no longer necessary.

(b) *Adverse comment.* An adverse comment is a comment the NTSB judges to be critical of the rule, to suggest the rule should not be adopted, or to suggest a change should be made to the rule. Under the direct final rule process, the NTSB does not consider the following types of comments to be adverse:

(1) Comments recommending another rule change, unless the commenter states the direct final rule will be ineffective without the change;

(2) Comments outside the scope of the rule and comments suggesting the rule's policy or requirements should or should not be extended to other topics outside the scope of the rule;

(3) Comments in support of the rule; or

(4) Comments requesting clarification.

(c) *Confirmation of effective date.* The NTSB will publish a confirmation rule document in the FEDERAL REGISTER if it has not received an adverse comment or notice of intent to file an adverse comment by the date specified in the direct final rule. The confirmation rule document informs the public of the effective date of the rule.

(d) *Withdrawal of a direct final rule.* (1) If the NTSB receives an adverse comment or a notice of intent to file an adverse comment within the comment period, it will publish a rule document in the FEDERAL REGISTER, before the effective date of the direct final rule,